IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2684 OF 2006

Prashant Akaram Shinde ... Applicant
versus
State of Maharashtra ... Respondent

Shri Nitin Pradhan i/by Ms.S.D.Khot for applicant
Shri P.A.Pole, APP for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 30th August 2006

PC :

1. Heard Shri Pradhan for the applicant and Shri Pole - APP for respondents.

2. The applicant has been arrested in connection with CR No.45 of 2006 which is registered at June Rajwada Police Station, Kolhapur. The applicant is accused no.17.

3. The submission of Shri Pradhan appearing for the applicant is that apart from the applicant, accused nos.1 to 16 applied for bail to this Court earlier vide Criminal Application No.1295 of 2006 and this Court was pleased to enlarge

them on bail.

4. Insofar as present applicant is concerned his application for bail was rejected by the Trial Court and benefit of parity was also not given to the applicant. He has invited my attention to the FIR and has contended that as far as role of the present applicant is concerned, it is identical to the other accused. Shri Pradhan invites my attention to the observations of the Trial Court with regard to the applicant being habitual offender and the applicant having criminal antecedents. It is observed by the Trial Court that other cases are serious in nature. Under such circumstances the applicant does not deserve to be enlarged on bail. However, Shri Pradhan invited my attention to the affidavit- in- rejoinder of the applicant’s wife which sets out a chart of pending cases and he submits that some of the cases are not against the applicant, in some of the cases he has been acquitted, some of the cases have been closed and only one criminal case where there is conviction, this Court has admitted the appeal and the applicant is released on bail. In such circumstances, no capital can be made of pendency of 22 cases against the applicant herein.

5. Learned APP on the other hand has invited my attention to the affidavit filed in reply and has contended that the offence is serious in nature. Further, the applicant if released on bail, would, considering his antecedents, threaten the prosecution witnesses and will also not co-operate in smooth completion of the trial. In such circumstances, his application be rejected.

6. After this matter was kept back in the morning session a further affidavit was filed and a revised chart is annexed by the investigating officer. He submits that in the chart of present status of cases against the applicant at item 2, in CR No.79/1998, the applicant was convicted and sentenced to simple imprisonment for five months and fine of Rs.500/-. There are thus 18 cases and not 22 cases. The cases pending against the applicant are about four in number.

7. After perusal of the application and the annexures thereto including the statement of complainant it is clear that the applicant’s role is also identical to that of the other accused. Other accused have been enlarged on bail by this Court. It is clear from a perusal of this

Court’s order that stringent conditions have been imposed upon other accused including not to enter the city limits.

8. From a perusal of the materials including the affidavits filed in reply and rejoinder it is clear that out of 18 cases against the applicant, in four pending cases, the applicant has been enlarged on bail. One conviction against applicant in a criminal case is of 10th November 1998. As far as conviction in the other criminal case is concerned, it is clear that criminal appeal is admitted and applicant is enlarged on bail.

9. It is also brought to my notice that several cases filed against the applicant have been closed. The chart, part of which is disputed by the applicant in his affidavit in rejoinder, shows several cases where the applicant’s brother is also an accused.

10. In my view, thus the only ground for rejecting the application for bail in the Trial Court was on account of pending cases. Ultimately, even in pending cases if the applicant is enlarged on bail and he has not been

found flouting any of the conditions imposed in that behalf, then mere pendency of the cases, in the facts and circumstances of the present case, would not disentitle him from being enlarged on bail. Taking an over all view of the matter and when the applicant is entitled to be released on the grounds of parity, interest of justice would be subserved if while enlarging the applicant on bail, stringent conditions are imposed. Hence following order.

11. ORDER :-

(i) The applicant shall be enlarged on bail in connection with C.R.No.45 of 2006 registered with Juna Rajwada Police Station, Kolhapur subject to furnishing a personal bond of Rs.10,000/- (Rs.Ten thousand only) with one or two local sureties in the like sum;

(ii) The applicant shall not enter the jurisdiction of Kolhapur City during pendency of trial;

(iii) Applicant shall furnish new address to the Superintendent of Jail before he is released, and he shall report to the nearest Police Station from the new residence twice in a month;

(iv) The applicant is permitted to enter Kolhapur City limits to attend court cases;

(v) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(vi) Prosecution is at liberty to apply for

cancellation of bail in case of complaint being received by the I.O. against applicant;

(vii) The applicant shall co-operate with the Trial Court for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

(viii) Any observation/s made in this order shall not be constructed as any finding or any expression of opinion on the merits of the case at the time of trial.

(ix) Application is disposed of in above terms.

(S.C.DHARMADHIKARI, J.)